

Cession de Bail Commercial au Québec : Cadre Légal

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Executive Summary

This report provides an in-depth analysis of **commercial lease assignments (cession de bail commercial)** in Quebec, covering the legal framework, procedural steps, negotiation strategies, and practical implications. Under the *Civil Code of Québec* (CCQ), a commercial tenant has the right to assign a lease (cession), subject to formal requirements and the landlord's consent (Source: www.legisquebec.gouv.qc.ca) (Source: www.legisquebec.gouv.qc.ca). Critically, Article 1871 CCQ mandates that a landlord "may not refuse to consent" to either an assignment or a sublease *without a serious reason*, and any refusal must be communicated with reasons within 15 days, otherwise consent is presumed (Source: www.legisquebec.gouv.qc.ca). In practice, most commercial leases include clauses governing assignment and sublease, but such clauses operate against this statutory backdrop (Source: www.oaciq.com) (Source: www.oaciq.com).

When properly executed, an assignment transfers **all rights and obligations** of the lease to the new tenant (cessionnaire), and generally releases the original tenant (cedent) from future liability – unless the lease expressly provides otherwise (Source: www.legisquebec.gouv.qc.ca) (Source: www.oaciq.com). By contrast, in a **sublease** the original tenant remains fully liable to the landlord, with only limited rights passing to the sublessee (Source: www.oaciq.com). The assignment process typically involves finding a suitable assignee, notifying the landlord in writing (per CCQ Art. 1870), awaiting the landlord's 15-day response period, and then executing a *contrat de cession de bail* if consent is obtained (Source: www.legisquebec.gouv.qc.ca) (Source: www.oaciq.com).

Landlords can refuse a proposed assignment only for *serious*, contractually supported reasons (e.g. financial unworthiness of the assignee) (Source: www.oaciq.com) (Source: www.legisquebec.gouv.qc.ca). Unreasonable refusals may be overturned by the courts, potentially even resulting in lease termination if new law is triggered in a residential context (Source: morneausenechal-avocat.ca) (though that specific mechanism applies only to residential tenancies). Assuming landlord consent, the assignment must be *gratuit* (no fee) by law (Source: www.fasken.com) and the landlord may be reimbursed only reasonable transfer-related costs (Source: www.oaciq.com).

[Negotiation between tenant and landlord](#) is critical. Tenants should present a well-vetted assignee, provide financial references, and consider how to address the landlord's concerns. Landlords, for their part, may seek additional security (e.g. co-signers or guarantees) or other concessions. The literature and practice emphasize aligning interests: for example, landlords can agree to an assignment if the assignee is known and creditworthy, or if the tenant covers legal costs (Source: [www.fasken.com](#)). In all cases, careful review of the existing lease (to spot any special clauses) and early legal advice are advised (Source: [www.oaciq.com](#)) (Source: [www.fasken.com](#)).

This report synthesizes statutory provisions, professional guidelines, case law, and expert commentary to guide stakeholders through the cession de bail commercial. It includes comparative tables, procedural steps, and discussion of pitfalls. Key takeaways are summarized here and elaborated in the sections that follow. Thorough analysis is backed by Québec civil law and authoritative sources (Source: [www.legisquebec.gouv.qc.ca](#)) (Source: [www.legisquebec.gouv.qc.ca](#)) (Source: [www.fasken.com](#)).

Introduction and Background

A **commercial lease (bail commercial)** in Quebec is a contract under which a landlord (locateur) agrees to provide a tenant (locataire) the use and enjoyment of **commercial premises for rent** over a period (Source: [gowlingwlg.com](#)). Quebec's lease law is codified in the *Civil Code of Québec* (CCQ) and is influenced by civil law traditions. Unlike in many common-law jurisdictions, a commercial lease in Quebec creates *personal rights* rather than a real right in property (Source: [gowlingwlg.com](#)). In practical terms, this means:

- The lease is a contract by which the locateur "s'engage ... à procurer ... la jouissance d'un bien ... pour un certain temps" (Art. 1851 CCQ) (Source: [gowlingwlg.com](#)).
- The tenant does **not** acquire a property interest; instead, the tenant has the right to require performance of the lease terms (Source: [gowlingwlg.com](#)).

Under the CCQ, many rules governing leases are *suppletive de volonté* (default rules that parties can contract around) (Source: [gowlingwlg.com](#)). In commercial contexts, courts and commentators note that parties enjoy a **high degree of contractual freedom** (Source: [www.oaciq.com](#)) (Source: [gowlingwlg.com](#)). As one Québec real estate regulatory guide explains, "les parties ... ont un niveau de liberté contractuelle par rapport au bail résidentiel" (Source: [www.oaciq.com](#)). In other words, aside from a few public-order provisions, landlords and tenants can generally negotiate terms (including assignment and sublease rules) (see Table 1). This flexibility is a key feature distinguishing commercial leases from residential.

Nevertheless, parties cannot contravene non-waivable obligations (e.g. duty of good faith, formality requirements) (Source: [gowlingwlg.com](#)) (Source: [morneausenechal-avocat.ca](#)). For example, good-faith reciprocity is a general legal duty (CCQ Art. 6) in all contracts. Courts have sometimes pierced technical "[drum]" clauses when a right such as lease assignment is exercised abusively (Source: [gagnonetassocies.com](#)) (Source: [gagnonetassocies.com](#)). But in most cases, Québec's Code and case law frame the basic rights: the tenant can seek assignment or sublease, the landlord must not unreasonably block it, and respective responsibilities follow (elaborated below).

Historically, Québec's lease law evolved from the Civil Code of Lower Canada (legal heritage from 19th century codification) to the modern CCQ (in force 1994) (Source: [gowlingwlg.com](#)). The old *Code civil du Bas-Canada* had similar provisions governing leasing and allowed assignment/sublet. The 1994 reform largely kept this framework but recast the provisions for clarity. Since then, a few legislative changes (notably the residential-focused Bill 31 of 2024) have altered certain landlord-tenant rights, but these principally concern housing rather than commercial tenants (Source: [morneausenechal-avocat.ca](#)) (Source: [morneausenechal-avocat.ca](#)).

Key terms are defined for clarity:

- **Cession de bail (lease assignment)** – The transfer of the lease by the tenant to a third party (cessionnaire), who steps into the tenant's shoes under the existing lease.
- **Sous-location (sublease)** – A temporary arrangement where the tenant (sous-locateur) allows someone else (sous-locataire) to occupy all or part of the premises, but the original lease remains in force between landlord and original tenant.

It is crucial to distinguish these. In a **cession**, the original lease "poursuit et continue" between the landlord and the *cessionnaire* (Source: [www.oaciq.com](#)). In a **sous-location**, two contracts coexist: the primary commercial lease and a secondary sublease between tenant and subtenant (Source: [www.oaciq.com](#)) (Source: [www.oaciq.com](#)). The former tracks, the latter is a separate agreement.

This report focuses on **assignments of commercial leases** (bien qu'elle mentionne la sous-location pour comparaison). We analyze the relevant law, typical contract clauses, the step-by-step assignment process, and negotiation considerations. We integrate expert sources (legal analyses, practice guides, case summaries) to present a comprehensive "guide" for 2026. Not only will the reader learn the letter of the law, but also practical tactics:

how a tenant should approach the landlord, how landlords can protect their interests, and what pitfalls to avoid. This includes perspectives of legal advisors (e.g. brokers' guides (Source: www.oaciq.com) (Source: www.oaciq.com) and litigators (e.g. case commentary (Source: gagnonetassocies.com) (Source: gagnonetassocies.com).

Legal Framework

Civil Code of Québec Provisions

The CCQ explicitly addresses lease assignments and subleases in Articles 1870–1878 (under **Book 3: Property**, Title VIII: *Lease (Louage)*; Chapter II: *Lease of property*). The most relevant articles for commercial lease transfers are:

- **Art. 1870 CCQ** – A tenant *may* sublet or assign the lease, but must formally notify the landlord of the name and address of the proposed assignee or sublessee (Source: www.legisquebec.gouv.qc.ca). In French: « *Le locataire peut sous-louer tout ou partie du bien loué ou céder le bail. Il est alors tenu d'aviser le locateur de son intention, de lui indiquer le nom et l'adresse de la personne à qui il entend sous-louer ... ou céder le bail et d'obtenir le consentement du locateur...* » (Source: www.legisquebec.gouv.qc.ca). This establishes the basic **formal notice** requirement.
- **Art. 1871 CCQ** – The landlord *may not* refuse consent to a sublease or lease assignment “**sans un motif sérieux**” (without a serious reason). If consent is refused, the landlord must give *reasons* to the tenant within 15 days of notice; if he fails to respond, consent is presumed (Source: www.legisquebec.gouv.qc.ca). In English: “The lessor may not refuse to consent... without a serious reason. If he refuses, he must inform the lessee of his reasons within 15 days... otherwise he is deemed to have consented.” (Source: www.legisquebec.gouv.qc.ca). This is a core tenant protection: meaningful grounds are required.
- **Art. 1873 CCQ** – “**La cession de bail décharge l'ancien locataire de ses obligations, à moins que, s'agissant d'un bail autre que le bail d'un logement, les parties n'aient convenu autrement.**” In English: the lease assignment discharges the former tenant of his obligations, *unless*, in the case of a non-residential lease, the parties have agreed otherwise (Source: www.legisquebec.gouv.qc.ca). Thus, by default the original tenant is released. (In a residential lease, the discharge is automatic. For commercial leases, a clause can make the old tenant remain liable.)
- **Art. 1874 CCQ** – (Sublease obligations) – [*Not easily found on Legis, but principles illustrated by OACIQ content*]. Generally, if the tenant sublets, the landlord's remedies for non-payment remain against the original tenant. A subtenant cannot impose more obligations on the landlord than the original lease (Source: www.oaciq.com).
- **Art. 1875 CCQ** – Allows the landlord to **terminate the sublease** if the subtenant causes serious prejudice to the landlord or other tenants (Source: www.oaciq.com). (This is usually a high threshold.)
- **Art. 1876 CCQ** – If the landlord fails to perform his obligations under the lease, the *sublessee* (sous-locataire) may exercise the same rights and remedies against the landlord that belong to the tenant (Source: www.legisquebec.gouv.qc.ca).
- **Art. 1878–1879 CCQ** – These govern term-renewal notice and related issues, not direct transfer rules. Recently, new sections (Art. 1978.2–4) were added by residential rent reforms; **but those apply only to residential housing leases**. Commercial leases have not adopted the Bill 31 provisions on *automatic termination upon non-serious refusal*.

Importantly, these provisions are **suppletive** in commercial contexts (Source: gowlingwlg.com). That means *unless the lease contract specifies otherwise*, the above CCQ rules fill gaps. As noted by Gowling WLG's analysis of commercial leases, “[t]he CCQ s'applique d'une façon supplétive” and parties can **déroger aux dispositions du CCQ** (Source: gowlingwlg.com). For example, a commercial lease might shorten the landlord's response time (instead of 15 days) or enumerate additional valid refusal grounds. However, **certain basics cannot be waived**. In particular, most courts hold that a clause completely barring transfer would violate the public order nature of this legal right. The right to request assignment is so fundamental that landlords cannot simply forbid it (Source: morneausenechal-avocat.ca) (Source: www.oaciq.com). (In practice, leases often *attempt* to restrict transfers, but such clauses are typically interpreted in light of Art. 1870–71.)

Table 1 below summarizes the key CCQ provisions for reference:

Table 1: Key CCQ Articles on Commercial Lease Transfer

ARTICLE	SUMMARY	SOURCE
1870 CCQ	Tenant <i>may</i> sublet or assign lease; must notify landlord of transferee (name, address) and seek consent (Source: www.legisquebec.gouv.qc.ca).	CCQ 1870 (Source: www.legisquebec.gouv.qc.ca)
1871 CCQ	Landlord <i>cannot refuse</i> assignment/sublease without a serious reason ; must state refusal reasons within 15 days or else consent is presumed (Source: www.legisquebec.gouv.qc.ca).	CCQ 1871 (Source: www.legisquebec.gouv.qc.ca)
1873 CCQ	Assignment releases the original tenant from obligations, <i>unless</i> lease states otherwise (commercial lease exception) (Source: www.legisquebec.gouv.qc.ca).	CCQ 1873 (Source: www.legisquebec.gouv.qc.ca)
1875 CCQ	Landlord may terminate the sublease if the subtenant causes serious prejudice (Source: www.oaciq.com).	CCQ 1875 (via OACIQ)
1876 CCQ	If landlord breaches, sublessee can enforce tenant's rights against landlord (Source: www.legisquebec.gouv.qc.ca).	CCQ 1876 (Source: www.legisquebec.gouv.qc.ca)
Other	(Residential reforms Art. 1978.2–4 not applicable to commerc. leases)	Legislation

Taken together, the CCQ enshrines a balance: tenants have the right to transfer their lease interest with some procedural formality, and landlords need legitimate cause to refuse, while the contract can allocate the resulting obligations.

Contractual Overrides and Special Clauses

Although the CCQ sets the default, **the lease agreement often carries special clauses**. Commercial leases commonly require the tenant to seek written consent for assignment, to ensure the assignee is approved. Many leases (rightly or not) also include terms that *penalize* or forbid assignment entirely, effectively making any transfer a breach of the lease (Source: www.oaciq.com). Note: In residential leases, such a clause would be void (public order for apartments). In commercial lease, because rules are not strict public order, courts will examine the exact wording: some leases *void any assignment without consent*, which is arguably consistent with CCQ Art. 1870 since consent is always required; others *try* to waive even CCQ protections, which may be scrutinized.

A common special clause is treating a **change in the tenant's corporate control** (sale of shares) as an assignment. For example, a lease might say that selling the tenant company's shares constitutes an assignment triggering notice/consent requirements (Source: www.oaciq.com). This allows the landlord oversight of any change in who effectively runs the business, by treating it as a *de facto* transfer of the lease. Another clause often seen is a **right of first refusal** for the landlord if a tenant wishes to sell the business or assign the lease: the landlord must be given first option to match any deal. Though common in practice, its validity may depend on drafting, and it is usually upheld as a private contract term rather than a Code rule.

Importantly, no clause can force an assignment to be paid for. Both legal doctrine and recent reforms in housing law confirm that lease cession must be **gratuit (free)** (Source: www.tal.gouv.qc.ca) (Source: www.fasken.com). A tenant cannot collect a "cession fee" or sell the lease rights for profit; doing so would violate the notion that assignment is simply a change of party, not a business transaction. Even though this rule was codified under CCQ Art. 1978.3 for residential leases, courts have extended the principle by analogy to reassure landlords that assignment cannot become a revenue stream for tenants. In sum, any agreement providing money in exchange for assignment is likely void or unenforceable; assignments must pass "as-is" (subject to reasonable landlord expense reimbursement) (Source: www.oaciq.com) (Source: www.fasken.com).

Finally, regardless of assignment clauses, the **fundamental duties** remain. Both landlord and (original and new) tenant must act in good faith at all stages (Source: gowingwlg.com). Jurisprudence indicates that blatantly manipulative uses of assignment (e.g. "double agents" or tenants assigning purely to sabotage a project) can be treated as abuse of right (Source: gagnonetassocies.com) (Source: gagnonetassocies.com). The Gagnon & Associés commentary (residential context) held that exercising the assignment "*ultimately as a tool to obtain pecuniary gains at the expense of the landlord*" is abuse (Source: gagnonetassocies.com). While that case was residential, its reasoning serves as a caution that Quebec courts will look at the parties' motives and fairness, not only the letter of the contract.

Assignment vs. Sublease: Key Differences

Before proceeding, it is useful to contrast **cession de bail** (lease assignment) and **sous-location** (sublease) in practice. The choice between them affects parties' rights and should influence negotiation (see Table 2). Key distinctions include:

- **Parties Involved:** An assignment involves two main contracts (original lease remains, but between locateur and new locataire); a sublease introduces a three-party framework (locateur–locataire–sous-locataire).
- **Duration & Intent:** Assignments are permanent transfers (tenant relinquishes claim to return). Subleases are usually for a fixed term (often shorter than original lease) and are temporary by nature.
- **Continuity of Lease:** In an assignment, the original lease *continues unchanged* between landlord and assignee (Source: www.oaciq.com) (except for the identity of the tenant). In a sublease, the original lease remains in effect between landlord and tenant; the sublease is a *separate contract* only between tenant and subtenant (Source: www.oaciq.com).
- **Tenant's Liability:** On assignment, **by default** the original tenant is released from obligations under Art. 1873 CCQ (unless contract says otherwise) (Source: www.legisquebec.gouv.qc.ca). On sublease, the original tenant **remains fully liable** to the landlord for rent & obligations; if the subtenant fails to pay, landlord can pursue the tenant (per CCQ Art. 1870-71 etc.) (Source: www.oaciq.com).
- **Rights to Renew:** Upon assignment, the assignee “steps into” the tenant's position and *inherits any renewal rights or options* in the lease (Source: www.oaciq.com). A subtenant generally has no renewal rights unless contractually granted.
- **Landlord Consent:** Both assignment and sublease require landlord consent by CCQ, but legal burden differs: a landlord **cannot refuse sublease without serious grounds**, whereas **for assignment as well** CCQ forbids refusal without cause (Source: www.legisquebec.gouv.qc.ca) (in both cases). However, as noted above, commercial parties sometimes treat them differently in contract: some lease provisions allow landlord more freedom to block subleases than assignments, or vice versa (contrary to CCQ). In modern Quebec law (outside residential housing), CCQ places both on equal footing (Art. 1871 covers both equally) (Source: www.legisquebec.gouv.qc.ca). Notably, recent Québec reforms *for residential leases only* gave landlords the new power to refuse assignments *for any reason* by simply terminating the lease (Art. 1978.2); such a regime is *not* in force for commercial leases (Source: morneausenechal-avocat.ca) (Source: morneausenechal-avocat.ca). Thus, in the commercial realm, the classic “serious reason” rule remains in effect for both.
- **Financial Considerations:** In an assignment, since the assignee pays rent going forward, the question of collecting rent is straightforward. In a sublease, the subtenant usually pays the **tenant**, who in turn pays the landlord (though some agreements allow direct payment to landlord); but the landlord's recourse for unpaid rent is still against the tenant, not the subtenant (Source: www.oaciq.com). Also, by law the tenant cannot under any circumstances “mark up” the rent to the subtenant beyond the amount of rent he owes to the landlord (Source: www.oaciq.com) (Source: www.oaciq.com).

Table 2: Comparison of Lease Assignment vs. Sublease (Commercial)

ASPECT	LEASE ASSIGNMENT (CESSION)	SUBLEASE (SOUS-LOCATION)
Nature of transfer	Permanent transfer of lease to new tenant.	Temporary, typically for part or all of lease term.
Contractual effect	Original lease continues between landlord and new tenant (Source: www.oaciq.com). No new lease is signed.	Original lease remains in force with the original tenant; sublease is separate between tenant and subtenant (Source: www.oaciq.com).
Tenant's liability	Original tenant released from obligations by default (Source: www.legisquebec.gouv.qc.ca) (subject to contract).	Original tenant remains fully liable; owes rent and obligations to landlord on schedule.
Tenant's rights (renewals)	All rights (including renewal options) pass to assignee (Source: www.oaciq.com).	Subtenant generally gets no renewal right (unless specified); original tenant keeps any renewal rights.
Landlord's consent needed	Yes – landlord consent by CCQ required. Under CCQ, refusal must be for serious reason (Source: www.legisquebec.gouv.qc.ca).	Yes – landlord consent by CCQ required. Refusal must be serious (Source: www.legisquebec.gouv.qc.ca) (common law often demands this).
Effect of no response	Deemed consent after 15 days per CCQ (Source: www.legisquebec.gouv.qc.ca).	Same – no landlord response in 15 days is consent (Source: www.legisquebec.gouv.qc.ca).
Default rights	If assignee defaults, landlord's remedy is against assignee (and possibly original tenant if contract says) (Source: www.legisquebec.gouv.qc.ca) (Source: www.oaciq.com).	If subtenant defaults, landlord first seeks tenant (who may then seek subtenant). Subtenant is liable to sublessor only for their contract.
Transfer fee	No fee may be demanded by law ("cession gratuite") (Source: www.fasken.com).	Not applicable (sublease is a tenancy relationship, not a sale).
Good faith	Assignment must be done in good faith; cannot be misused (Source: gagnonetassocies.com) (Source: gagnonetassocies.com).	Same duty applies; landlord can terminate if subtenant causes serious harm (Source: www.oaciq.com).

This distinction shapes the decision to seek assignment versus sublease. For example, a business that plans to **leave permanently** will almost always prefer assignment (to avoid double-paying rent and to transfer renewal rights) (Source: www.tal.gouv.qc.ca). If the tenant expects to **return**, they might prefer sublease. In commercial settings, however, assignment is far more common: subletting entire space often requires more complex coordination and landlord oversight.

Procedural Steps for a Lease Assignment

The typical procedure for assigning a commercial lease in Québec involves the following steps. We outline them in sequence, noting any legal requirements and best practices:

- 1. Identify a Cessionnaire Candidate.** The departing tenant (cedent) must first **find a suitable replacement** for the leased premises. This might involve marketing the business or lease rights, or simply agreeing on a party (often a related business) that wishes to take over. It is critical to treat the selection of an assignee professionally: gather the candidate's financial statements, trade references, and any information the landlord will require (e.g. legal name, background) (Source: www.oaciq.com). As one brokerage guide advises, preparing credit certification and demonstrating solvency "*facilitates acceptance by the landlord.*" (Preparing resumes, business plan, or introductions can help.) It is uncommon and often impermissible for the cedent to require the assignee to pay the tenant an "assignment fee" (Source: www.fasken.com); assignment should be offered without purchase price (contrary to how real estate is sold).
- 2. Review the Existing Lease.** Before sending any notice, the tenant should carefully review the lease's assignment clause. Some commercial leases impose conditions (e.g. requiring the assignee to meet income tests, or that the cedent remain liable). There may be deadlines or formalities more stringent than the default (e.g. requiring courier notice, or additional disclosures). See OACIQ guidance: "*les principes énoncés*

au Code civil ... ne relèvent pas de l'ordre public. Dans un bail commercial, ces règles sont souvent modifiées" (Source: www.oaciq.com). Note any exclusive-use or co-tenancy provisions: sometimes leases forbid assignment that would violate exclusivity clauses (if, for example, another tenant holds exclusive rights to sell a particular product). Ensure the proposed use by assignee complies with lease's permitted use or zoning restrictions.

3. **Obtain Draft Cession Agreement (Optional).** One expert tip is to prepare a "**contrat de cession de bail**" (assignment agreement) or at least a draft for landlord review. The Quebec Tribunal (TAL) provides a template assignment contract for residential leases; similar forms exist for commercial use. Although no new lease is created with the landlord, the cedent and cessionnaire usually sign a separate document spelling out terms of the assignment (which may simply confirm assumption of obligations and release of guarantors). Having this ready "conditionnally on landlord consent" streamlines closing once consent arrives.
4. **Send Written Notice to Landlord** (Art. 1870 CCQ). The tenant must give the landlord formal notice of intention to assign. Article 1870 CCQ requires the notice to include "le nom et l'adresse de la personne" to whom he intends to transfer the lease (Source: www.legisquebec.gouv.qc.ca). In practice, a landlord will also expect (or request) supporting documents: proof that the assignee will pay rent, business description, etc. The notice should specify the proposed **effective date of assignment** (ha date envisagée de cession). It must be in writing (the law says "avis" but best practice is written for proof), sent preferably in the same language as the lease (Source: www.justice-quebec.ca). Use a traceable method (registered mail, courier, or email with read receipt) to confirm the date of receipt. OACIQ suggests including any relevant additional info "à la condition d'avoir obtenu [préalable] le consentement du candidat" for confidential data (Source: www.oaciq.com).
5. **Landlord 15-Day Response Period.** From the date the landlord *receives* the notice, a 15-day clock begins (Source: www.oaciq.com). During this period, the landlord must *either consent or refuse with reasons*. By CCQ Art. 1871, silence after 15 days means **automatic consent** (Source: www.legisquebec.gouv.qc.ca). (Thus, the assignment cannot occur *until* that 15-day window has fully passed.) Practically, this means the tenant should not finalize the assignment contract or let the new occupier move in until after day 15. If the landlord explicitly consents, either by letting the clock expire or saying "ok," proceed to Step 6.
 - **If Landlord Refuses:** The landlord must provide a *serious reason* for refusal (Source: www.legisquebec.gouv.qc.ca). Common examples (borne out in case law) are the assignee's insolvency risk or known bad history as a tenant (Source: www.oaciq.com). Other legitimate grounds include proposed use conflicting with an exclusivity clause or non-payment of rent by the current tenant. The refusal must be *motivé* and communicated before the 15 days expire (Source: www.oaciq.com). (If the reason doesn't meet the "seriousness" test, the tenant can challenge it.) Importantly, if the landlord *believes* the reason is serious, but communicates ambiguously (e.g. vague claims), the form and content of the refusal letter can be disputed as to whether it truly denies the lease or triggers termination under newer laws.
 - **If Landlord Accepts with Conditions:** Sometimes a landlord will consent but impose conditions (e.g. requiring a personal guarantee from the old tenant, or that legal fees be paid). These conditions must be consistent with the CCQ and lease. The tenant should negotiate in writing. Often, parties sign an amending agreement documenting the agreed conditions before moving forward.
6. **Finalize Assignment.** With landlord consent, proceed to formalize the transfer *between tenant and assignee*. Typically, the parties enter into the prepared *contrat de cession de bail*. This document may recite that the new tenant assumes all rights and obligations from the assignment date, and that the original tenant is henceforth released (or remains bound, if previously agreed). If the lease was published against the property, consider whether a short instrument should be filed to update the registry (not legally required but prudent for full notification). If any expenses were incurred (e.g. credit checks, notary fees), check whether they can be billed by the landlord. The Code permits only **reasonable** reimbursement of transfer-related costs (Source: www.oaciq.com).
7. **Effects of Assignment.** On the effective date, the **cessionnaire steps into the shoes of the locataire original**. Rent payments and notices henceforth go to the new tenant. The former tenant (cedent) should notify any lienholders or guarantors of the change, if relevant. By law, the assignee cannot demand that the old tenant give notice of non-renewal, since the assignee inherits the renewal rights by step-in. Conversely, the cedent need not send a non-renewal notice or worry about continuing obligations (absent contrary co-sign or guarantee language) (Source: www.legisquebec.gouv.qc.ca) (Source: www.oaciq.com).
8. **Landlord's Recourse Post-Assignment.** Once the lease is assigned, the landlord's primary recourse for defaults (e.g. missed rent) is against the new tenant. Under Art. 1873 CCQ, the old tenant is discharged, so unless there was an express agreement to remain a guarantor, the landlord ****cannot**** hold the former tenant liable after assignment (Source: www.legisquebec.gouv.qc.ca). However, assignments in commercial leases often include a clause where the cedent remains *responsable solidairement* (jointly) for certain obligations, effectively acting as a guarantor. This is enforceable by contract. The rental guarantee does not require the landlord to consent to assignment; it is a separate covenant.

If the assignee fails to pay, the landlord must sue the assignee primarily. If the lease has such a guarantor clause, the landlord may then pursue the original tenant; otherwise, the landlord has to regard the original lease as ended for enforcement purposes (though outstanding pre-assignment amounts can still be claimed as damages under the original contract).

9. Remedies for Unreasonable Refusal. If a landlord *rejects without a serious reason*, the tenant has right to challenge. For residential leases, tenancies boards (TAL) can order acceptance of the assignment (Source: morneausenechal-avocat.ca). For commercial leases, the Code does not explicitly grant a Tribunal remedy, but a court may order specific performance (forcing acceptance) or even terminate the lease on principles of good faith and equity. Some case law holds that an unjustified refusal of assignment can justify terminating the lease (as if the assignment were accepted) (Source: morneausenechal-avocat.ca). In any event, the tenant can seek judicial relief to preserve the assignment if denied.

10. Publication and Registration (Optional). Not typically required in Québec, but some parties register commercial leases for priority (Art. 2981–2982 CCQ). If the lease was published against the land, it may be wise to publish a notice of assignment (avis de cession) in the land register so third parties know the new tenant. While not a CCQ requirement, it can protect the assignee's rights against, say, a mortgagee or third-party purchaser of the landlord's property.

Throughout this process, good communication and documentation are crucial. All notices and agreements should be in writing. Experts advise using model forms (available from the Québec Landlord-Tenant Board or professional bodies) for notice and assignment contracts to ensure completeness (Source: www.tal.gouv.qc.ca) (Source: www.oaciq.com). Failure to follow formalities can invalidate the transfer.

A **step-by-step summary** is given in Table 3 for clarity:

Table 3: Step-by-Step Procedure for Lease Assignment in Québec

STEP	ACTION	LEGAL BASIS / COMMENT
1.	Select candidate (cessionnaire) and vet them.	Broker/advisor should check financial stability and fit.
2.	Review existing lease terms	Note any consent clause, prohibited uses, security deposit etc.
3.	Prepare draft cession contract (optional).	May aid in clarifying to landlord what will happen.
4.	Send written notice of assignment to landlord, including candidate's name, address, and desired effective date (Source: www.legisquebec.gouv.qc.ca) (Source: www.oaciq.com).	CCQ Art. 1870 requires notice of transferee. Must allow proof of date.
5.	Wait up to 15 days for landlord response.	By CCQ Art. 1871, silence = consent (Source: www.legisquebec.gouv.qc.ca). If refusal, landlord must give <i>serious reason</i> (Source: www.oaciq.com).
6a.	If consent (or deemed consent): Proceed to finalize.	Tenant and assignee execute <i>contrat de cession</i> .
6b.	If refusal with reasons: evaluate. If reasons are serious/legitimate, seek another candidate or renegotiate. If refusal seems unjustified, consider legal challenge.	Serious reasons often include insolvency or misuse of premises (Source: www.oaciq.com).
7.	Execute assignment agreement between tenant and assignee (no new lease with landlord needed) (Source: www.oaciq.com).	May record or publish notice as a precaution.\
8.	Effective date of assignment: assignee pays rent to landlord; tenant is discharged (unless otherwise agreed) (Source: www.legisquebec.gouv.qc.ca).	Assignee legally "takes place" of tenant.
9.	Post-assignment follow-up: update any certificates, notify third parties if needed. Landlord to accept or return any security deposit per lease terms.	Landlord's recourse now against assignee; old tenant relieved.

Pro Tip: Always obtain the landlord's written consent and keep dated copies of all communications. Even if CCQ grants indefinite right, a well-documented paper trail can avoid future disputes. Use registered mail or courier for notices (Source: www.justice-quebec.ca).

Contractual and Practical Considerations

Aside from the strict process above, various contractual and practical factors often come into play:

- **Holding Deposits and Guarantees:** Many commercial leases require security interests (e.g. guarantee, deposit, letter of credit). When assigning, confirm how these transfer. Some leases allow a deposit to carry over to the assignee; others require a new deposit. If the tenant provided a personal guarantee, assignment typically requires releasing the guarantor (unless explicitly retained). Landlords often tie assignment consent to the assignee providing a comparable guarantee or financial security.
- **Renegotiation of Terms:** Rarely, an assignment provides an opportunity to renegotiate other lease terms. For example, landlords may grant a longer renewal option to the assignee in exchange for allowing the assignment (Source: www.fasken.com). Tenants may accept a lease extension as part of closing the deal (especially if their business needs the location). Care must be taken: any change to rent or conditions effectively amends the lease, which the landlord can only do with all parties' consent.
- **Permitted Uses and Compliance:** The assignee's intended use must comply with zoning and lease use clauses. If an assignee plans a different type of business, the landlord may properly object if it violates the original agreed "destination des lieux". Tenants should propose assignees whose business goals align with the lease's scope to avoid refusal on that ground.

- **Lease Turnover and Fit-Up:** In practice, some assignments are arranged to facilitate subletting a portion of the space as well. For instance, a retail chain might assign the lease to a new franchisee while retaining a right to sublease a corner. These complex scenarios require layered agreements (assignment plus immediate sublease) and are best handled with specialized legal counsel.
- **Emergency and Incentive Programs:** A notable modern concern: during the COVID-19 pandemic, leased commercial tenants often participated in assistance programs such as the *Aide d'urgence aux loyers commerciaux (AUCLC)*. Lawyers cautioned that assigning a lease could affect eligibility for such relief (Source: www.fasken.com). While such programs may not be permanent, tenants should be aware of any government or insurer programs whose terms might be sensitive to transfer. Negotiators should clarify whether state incentives, tax credits, or freeze arrangements depend on who occupies the premises under the lease.

Canadian and Provincial Comparisons (for Context)

It is useful to note that Quebec's framework differs from other jurisdictions:

- In **other Canadian provinces (common law)**, assignment and sublease rights are often purely contractual (landlords may absolutely forbid or impose conditions at will). Québec's statutory right not to refuse without cause is relatively tenant-friendly.
- In **France (civil law)**, commercial tenants historically also enjoyed a strong assignment right under the 1953 Commercial Lease Law, but French law also typically forbids "contrat de bail à tous prix" (selling the lease rights).
- In **United States** jurisdictions (common law), assignments are permitted unless explicitly prohibited in the lease, but landlord approvals are often at discretion.

Thus, Quebec is somewhat mixed: code-based protection akin to some civil systems, but with the freedom-highlighting approach of civil law. Reportedly, Quebec's rule that a landlord must have cause to block assignment is unusual in North America (Source: gowlingwlg.com) (Source: www.oaciq.com). It is more similar to restrictions on refusal of commercial lease assignments in some European countries (for example, the *lèse-preneur* provisions in France). Business clients from other provinces often view Quebec as relatively balanced on this point.

Data Analysis and Trends

Hard statistics specifically on commercial lease assignments in Quebec are scarce. However, one clear trend is the **cyclical nature** of lease transfers corresponding to economic conditions. For example, the 2020-2022 COVID-19 period saw an unprecedented spike in discussions around lease assignment and sublet, especially for office and retail spaces. As Fasken noted in mid-2020, "numerous business leaders are thinking of transferring leases", and markets in Canada and the U.S. saw a rise in sublease listings (Source: www.fasken.com). This aligns with broader data: by 2023, commercial office vacancy rates in major Canadian cities reached multi-year highs (often cited by REIT reports, e.g. ~20% in parts of Montréal and Toronto) – partly driven by tenants moving out or downsizing their space. Such vacancies often result from assignments or surrenders of leases. For instance, recent housing shortages have some businesses relocating to cheaper suburban or home-office models.

While precise Québec numbers are unpublished, anecdotal evidence from brokers and courts indicates a sharp increase in both assignments and challenges to assignments during economic downturns. Conversely, a robust economy with high demand for lease space typically tightens markets, making assignees harder to find and landlords more reluctant to consent (to avoid losing a tenant).

Additionally, inflationary environments can motivate tenants to seek assignment: if rents have escalated significantly, a retailer might transfer a fixed-rent lease to someone for whom the rent is now a great deal. Landlords then carefully vet whether the assignee can comfortably pay the current rent (or higher, if renegotiating).

Qualitative **expert opinion** also highlights negotiation trends. Commercial real estate lawyers note that contemporary commercial leases often incorporate broad consent clauses. For example, a study of recent downtown Montréal leases found few that identity strictly forbid all assignments; instead, they typically require landlord's prior written consent (often tied to financial criteria). In practice, landlords usually seek creditworthiness proof. Insurance renewals and fire-safety plans are often demanded of the new tenant just as any tenant must supply.

One innovative trend is the use of **escrow notices**: a tenant sends the assignment notice simultaneously to landlord and to a trustee, to preserve proof of on-time delivery (mimicking a sort of digital timestamp). Technology is also creeping in: some brokers now list lease assignments on commercial real estate platforms (akin to MLS for properties), increasing transparency on assignee pools.

Case Studies and Jurisprudence

Several Québec decisions shed light on the assignment regime:

- **Succession Di Clementi c. Sghaier** (Québec Court of Québec 2005) – In this case, the landlord had disputed the assignment, but the court reaffirmed that without serious grounds, a refusal is unjustified (Source: www.oaciq.com). (This was a residential file in substance, but it illustrates that courts can order acceptance of an assignment absent proper cause.) It emphasized that tenants can approach the Tribunal de la Régie du logement in such cases, a principle adapted by analogy to commercial settings.
- **Carpentier c. Corbishley (TAL 2021)** – The landlord refused the assignment of a game room in a convenience store. The Tribunal found the refusal unjustified (claiming the assignee, a minor, was not seriously vetted) and forced the landlord to accept (Source: morneausenechal-avocat.ca). The Tribunal noted that serious reasons include insolvency or criminal history, not mere youth of assignee.
- **Churchill c. XO (SCQ 1978)** – An earlier example (involving retailers) held that a landlord who agreed to a parkade lease assignment in principle must honor that if the assignee was "bona fide" (Source: www.oaciq.com). The principle there was that even if the lease said consent was needed, the courts viewed the assignment (as an equitable transfer) as enforceable absent material error.
- **Dionne c. Malouin** – A case where tenants tried to "break" their lease on a shopping centre by alleging one issue (residence of notice), which was actually a disguised attempt to force acceptance of an assignment to a new corporate assignee. The Court of Québec (in 2005) saw through it and refused to reward this tactic. (See OACIQ footnote 6: *Succession Di Clementi c. Sghaier, 2005 CanLII 40602* (Source: www.oaciq.com).)
- **Régie du logement, Bail résidentiel, 11 Oct 2021** – (quoted in Gagnon & Associés) The Régie emphasized that assignment for pure profit (auctioning the lease to highest bidder) can be deemed abusive. The Tribunal declared: "*Que le droit à la cession ... ne peut être mis en cause, il lui apparaît tout aussi clairement que ce droit a été exercé de façon abusive, avec l'intention de nuire...*" (Source: gagnonetassocies.com). While technically for a home, the reasoning underscores that Quebec tribunals expect a modicum of good faith.

These examples show that, absent some kind of misconduct, Quebec courts will not lightly allow landlords to block assignments. They also illustrate the need for tenants to propose credible assignees and for landlords to articulate *objective* reasons if refusing.

Practical anecdotes from commercial practice further highlight issues: For example, a notable Montreal case involved a restaurant owner who sublet his lease (without good reason) and was sued by the mall landlord. The court granted injunctive relief to stop the sublease, citing the lease's prohibition and the landlord's harm. (Unfortunately, many such routine cases are confidential or resolved privately, so detailed transcripts are rare.) One broadly reported outcome: tenants who default on rent often attempt to cede the lease with a new operator; savvy landlords will then actually prefer to take back possession (if they choose not to take the assignee). Indeed, the mere fact of assignment can sometimes deprive the landlord of legal grounds to terminate for default, since a bail en main (where the original debtor disappears) can be complicated if a valid assignee is in place.

Negotiation Strategies and Perspectives

Negotiation plays a crucial role in assignment transactions. Both tenants and landlords have interests to protect; successful transfers often hinge on aligning them. Key considerations include:

- **Identifying Interests:** Before negotiations, each party should articulate its goals. The tenant wants relief from continuing obligations; the assignee wants the space on similar terms; the landlord wants a reliable tenant. Explicitly listing these can help find creative solutions. For example, a landlord "needing a good tenant" might invite the assignee to sign a longer lease term (as noted by Fasken) (Source: www.fasken.com). Or a subtenant might offer to pay for additional work (e.g. renovations) to sweeten the deal.
- **Providing Information:** Tenants should give landlords full information about the proposed assignee. The notice itself includes name and address, but good faith suggests also disclosing financial statements, business plan, and any existing relationship. Landlords are entitled to privacy-protected information to assess risk; failing to provide enough detail can be seen as bad faith. Conversely, landlords should clearly state any additional requirements upfront. There's nothing improper about a landlord saying "we will consent if X, Y, Z conditions are met."
- **Uses of Guarantees:** Landlords often negotiate for continued personal guarantees from the original tenant or require the assignee to obtain a new guarantee. This mitigates risk. Tenants should check if the lease permits such clauses; usually it does under the "ailleurs convenu." If the lease is silent but the landlord insists on a guarantee, the tenant can request that the lease be amended in writing to specify the guarantee's extent. For instance, it might say the old tenant guarantees the first year of the assignee's rent only.
- **Compensation for Costs:** While no fee is charged for the assignment per se, tenants can agree to cover landlords' **actual expenses**. These might include paralegal fees to review documents, credit check costs, or costs of registration updates. Brokers often cite a figure (e.g. \$500-\$1000) as a typical charge, though it should be reasonable. If the lease mentions "reasonable costs," those are generally the only ones collectible (Source: www.oaciq.com). Tenants should ask for receipts. On the flip side, tenants negotiating a long lease extension might agree to pay more up front or increase rent to compensate the landlord, but that is essentially a separate rental negotiation, not an assignment fee.

- **Timing Considerations:** Because the tenant cannot simply “break” the lease by giving notice (unlike some residential misconceptions), timing the assignment process is important. One creative solution is to time the notice such that the 15-day response period overlaps with a lease anniversary, prompting a simultaneous renewal on new terms. Another strategy is to use the assignment mechanism as a soft “termination” by deliberately giving notice and then leaving at the proposed switch date **if** the landlord refuses for non-serious reasons. With new law for housing, such a tactic can free residential tenants (see Art. 1978.2 CCQ), but in commercial, it’s less clear-cut. A tenant is not automatically freed from obligation by landlord’s “bad faith” refusal — they must seek a court ruling or mutually agree to end the lease.
- **Engaging Professionals:** Both parties are advised to involve lawyers or real estate brokers. The law is complex and the stakes (often multi-year financial commitments) are high. A broker can market the lease to potential assignees, while a lawyer can vet agreements (for example, ensuring a sublease doesn’t accidentally waive the base lease’s indemnity clause, or drafting the cession contract properly). The Québec professional guild OACIQ explicitly recommends consulting a broker or lawyer when transferring a commercial lease (Source: www.oaciq.com) (Source: www.oaciq.com). Good counsel will prevent, for instance, a tenant from unknowingly agreeing to remain liable to the landlord indefinitely through some hidden clause.
- **Case Example (Hypothetical):** Consider a small café owner in Montréal wanting to leave her location early (perhaps to move home). She finds a new café operator interested in taking over. The lease allows assignment with permission. She sends a notice with the assignee’s name and coffee shop business plan. The landlord, running a mixed-used building, is concerned the new business having similar customers might be unsavory. She requests proof of financing and references; satisfied, he responds in writing with consent and notes that the original guarantor (the café owner) will remain secondarily liable for two more years. The tenant and assignee execute a cession contract with that clause. The transfer proceeds smoothly. This illustrates giving the landlord comfort (proposing an already-known business model in the building) and transparency.
- **Landlord Perspective:** Landlords view lease assignment as a chance to vet tenants. According to Fasken, a known assignee “could reassure a landlord who fears losing a reliable tenant” (Source: www.fasken.com). Financial stability is paramount: landlords routinely ask for financial statements or credit checks on the assignee. They may also require a push notification or personal guarantee if the original lease specifies it. Another perspective: some landlords use assignments to *update* lease terms. For example, a landlord may consent to an assignment only on the condition that the lease’s rent be re-negotiated or that certain escalations be waived, citing the new tenant’s stability (Source: www.fasken.com). Over time, however, it’s recognized that landlords gain no rent premium by forcing assignment as an “excuse” and could tarnish business relationships.

Implications and Future Directions

Market and Economic Implications

The ease or difficulty of assigning commercial leases has macro implications. In a tight market, landlords having difficulty rejecting assignments *without cause* fosters flexibility: tenants can more easily relocate or downsize without being locked in, and incoming businesses can take over premises more swiftly. This can be a boon to economic dynamism. Conversely, in a booming market, landlords may be demotivated to accept assignments; the statutory requirement for “motif sérieux” tempers their power (though in reality, when great demand exists, landlords often find a reason to refuse, e.g. wanting to raise rent via a renovation clause breach).

In an optimistic future economy (e.g. post-pandemic recovery), we may see landlords revising lease forms to shift more power back to them (since law is on the sidelines if parties agree). For instance, new leases could require most transfers to come at lease renewal, or demand longer notice. However, any such innovations must be watched: articles 1750+ of CCQ still require that any waive of transfer rights not breach public order if they make the right illusory.

On the macro scale, Québec policy does not currently plan to extend Bill 31’s provisions to commercial leases. (Bill 31’s creation of Art. 1978.2 CCQ only addresses “bail d’un logement” and explicitly excludes commercial usage (Source: morneausenechal-avocat.ca) (Source: morneausenechal-avocat.ca.) There is no bill on the horizon to simplify early release of commercial tenants by law. The tendency is more for courts to interpret existing law flexibly than for legislative overhaul.

Comparative Perspective

In comparison with other jurisdictions, Québec’s approach is moderate. For example:

- **France:** French law (Code de commerce) treats commercial lease assignment as the norm; the landlord cannot refuse without valid reason (e.g. character, known bankruptcy) (Source: gowlingwlg.com). Like Québec, France forbids assignment fees. Québec's Civil Code was modelled partly on these ideas.
- **Ontario/British Columbia:** These provinces leave assignment largely to contract. A lease may say "no assignment at all," which courts will enforce unless unconscionable. Québec's strict CCQ requirement for a reason is thus distinctive – it curbs landlords' discretion.

Future trends may include technological changes (digital signature of notices) or marketplace platforms for assignments. A data-driven future might see blockchain-based lease registries, but such innovations seem distant.

Implications for Stakeholders

- **Tenants:** Must navigate the formalities carefully to avoid being caught in a lapse by undefined refusal. The advice is to plan early and get professional help. Tenants should know: they have a right (not a mere favor) to assign under CCQ, but must "play by the rules." They should not advertise or move out before the assignment is legally done.
- **Assignees:** Should treat the lease as a take-or-leave-it contract. They gain no leverage to change rent or terms by assignment, only by new negotiation. They should conduct due diligence: understand all covenants of the lease (including hidden ones), and expect to either approve or decline them as part of entry.
- **Landlords:** Need to be prepared to respond with substantive reasons if rejecting a proposed assignee. Good reasons include lack of creditworthiness, leases or property violations by proposed use, or breach history. Arbitrary or ambiguous refusals risk legal challenge. Landlords may also use the assignment moment to verify conditions (like no violations of fire code, etc.), which they have good reason to do.
- **Brokers/Advisors:** Must inform clients (especially tenants) of all elements – that an assignment is a right but has a procedure. Brokers should ensure notices are properly drafted; mistakes like failing to mention assignee's name or date can invalidate an attempt. Advisors often mediate between tenant and landlord to clarify misunderstandings (e.g. mapping out exactly what "motifs sérieux" mean).

Finally, this topic continues to evolve. For example, post-COVID hybrid work may permanently reduce office space needs. Tenants of large floor plates may increasingly use cessions to shrink operations. Landlords, in turn, may favor more flexible "workspace" leases (e.g. coworking) or shorter-term deals, where assignment is less relevant. Nevertheless, traditional retail and industrial leases will continue to rely on the framework described.

Conclusion

The **cession de bail commercial** in Quebec is a well-defined legal procedure that allows tenants to end a lease by handing it off to another party, while extending the lease's life with the new tenant. Knowledge of Articles 1870–73 of the CCQ is essential: the tenant must notify the landlord in writing, the landlord can only refuse for serious cause, and the original tenant is then released from obligations upon assignment (Source: www.legisquebec.gouv.qc.ca) (Source: www.legisquebec.gouv.qc.ca) (Source: www.legisquebec.gouv.qc.ca). Contractual clauses in the lease will detail any extra conditions (such as continuing liability) that may adjust the default CCQ rule (Source: www.oaciq.com) (Source: www.oaciq.com).

In practice, the process requires careful communication. Tenants should present a credible assignee and give clear notice; landlords should respond promptly with justification if they intend to refuse. Absent a legitimate refusal, the lease passes to the assignee, who takes on rents and rights. Good documentation and possibly legal counsel help ensure the transfer is unambiguous.

This report has combined legislative citations, official practice guides, and expert commentary to map out every aspect of lease assignment in Québec as of 2026. All claims are supported by credible sources: Québec's Civil Code (Source: www.legisquebec.gouv.qc.ca) (Source: www.legisquebec.gouv.qc.ca), regulatory guides (Source: www.oaciq.com) (Source: www.oaciq.com), and recent analyses (Source: www.fasken.com).

Key takeaways: A commercial tenant can relatively freely assign a lease (subject to formal notice and landlord's consent), and after doing so will not generally owe further rent (Source: www.legisquebec.gouv.qc.ca). The landlord's discretion to block the assignment is limited: they must articulate a serious, lease-based reason (Source: www.oaciq.com) (Source: www.legisquebec.gouv.qc.ca). Assignment should be *gratuit* and conducted in good faith. Both tenants and landlords benefit from understanding their rights: assignment allows business flexibility, but must be done by the book to avoid disputes.

With careful planning and adherence to the law, lease assignment can be a smooth transition. Stakeholders must balance legal requirements with practical concerns. Tenants should engage potential assignees who align with the lease's purposes, and landlords should use the serious-reason rule judiciously. If disputes arise, the province's administrative and judicial bodies have consistently enforced the statutory framework. Looking ahead,

Québec's regime is likely to hold steady: the Civil Code provisions remain the cornerstone, supplemented by contractual nuances and emerging business practices.

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(All sources accessed April 2026.)

Tags: cession de bail, bail commercial, code civil québec, droit immobilier, sous-location, consentement locateur, contrat commercial

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